

1
2 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

3 -----X
AGUSTINA BUENO,

4
PLAINTIFF,

5
6 -against-

Case No.:
16-CV-4737
(WFK)(VMS)

7
8
MEL S. HARRIS AND ASSOCIATES, LLC, LR
9 CREDIT 18, LLC, MEL S. HARRIS, DAVID
WALDMAN, KERRY H. LUTZ, TODD FABACHER,
10 MICHAEL YOUNG, SAMSERV, INC., HUSAM
AL-ATRASH and WILLIAM MLOTOK,

11
DEFENDANTS.

12 -----X
13
14 DATE: March 13, 2018
15 TIME: 12:10 P.M.
16

17 DEPOSITION of the Defendant, LR
18 CREDIT 18, by a Witness, ROCCO NITTOLI,
19 taken by the respective parties, pursuant
20 to a Court Order and to the Federal Rules
21 of Civil Procedure, held at the offices of
22 Herbert Smith & Freehills LLP, 450
23 Lexington Avenue, 14th Floor, New York, New
24 York 10017, before Kenneth Perschke, a
25 Notary Public of the State of New York.

Page 78

1 **R. NITTOLI**
 2 **Orlando from Leucadia, myself, Zalman**
 3 **Jacobs, Steve Jacobs, Michael Young, Mel**
 4 **Harris and others that I don't remember.**

5 Q. Even if you don't remember
 6 their names, were they employees of Mel
 7 Harris, do you know who they were?

8 **A. It was counsel, the Leucadia**
 9 **defendants may have had Proskauer Rose in**
 10 **the meeting as well, I'm not sure.**

11 Q. Do you remember if there was
 12 any in-house counsel for Leucadia at this
 13 meeting?

14 **A. Yes.**

15 Q. Who was that person?

16 **A. Steve Jacobs.**

17 Q. Anyone else?

18 **A. Possibly Proskauer Rose.**

19 Q. Were there any attorneys for
 20 Mel Harris and Associates?

21 **A. There were other attorneys in**
 22 **the room from Mel Harris or Rushmore, I**
 23 **don't know who they were there for.**

24 Q. Do you know if they were
 25 attorneys that noticed an appearance in the

Page 80

1 **R. NITTOLI**
 2 meeting we're discussing before or after
 3 July 31, 2011?

4 **A. It was before.**

5 Q. If I understand your testimony,
 6 one of the purposes of the meeting was to
 7 decide whether to continue to use Mel
 8 Harris and Rushmore to collect debts owned
 9 by the LR Credit entities?

10 MR. BALBER: You are instructed
 11 not to answer any questions about
 12 what was discussed at the privileged
 13 meeting. **If you ask again I'm going**
 14 **to file a bar complaint, you have**
 15 **been warned.** You are not entitled to
 16 inquire about a privileged
 17 communication. The judge told you to
 18 make a motion if you would like to
 19 try to investigate what occurred at
 20 the meeting.

21 MR. KESHAVERZ: Actually, the
 22 judge said to make a record so that's
 23 what I'm doing. What's the basis for
 24 filing the bar complaint?

25 MR. BALBER: I didn't say I'm

Page 79

1 **R. NITTOLI**
 2 Sykes class action or if they were in-house
 3 counsel?

4 **A. I have no idea.**

5 Q. This was a meeting to discuss
 6 what steps to take, if any, in response to
 7 Exhibit 1, the Egleson affirmation?

8 MR. BALBER: You are instructed
 9 not to answer.

10 Q. Without telling me what was
 11 said, what was the purpose of the meeting,
 12 generally speaking?

13 **A. To understand what was going**
 14 **on.**

15 Q. Including regarding the Egleson
 16 declaration?

17 MR. BALBER: You are instructed
 18 not to answer. Do you want to
 19 establish when the meeting happened?

20 MR. KESHAVERZ: That was my
 21 next question.

22 MR. BALBER: Then ask that
 23 first.

24 Q. The date of the Egleson
 25 declaration was July 31, 2011. Was the

Page 81

1 **R. NITTOLI**
 2 going to do it, I'm warning you. If
 3 you keep trying to invade
 4 attorney/client privilege
 5 inappropriately, that's what I'm
 6 going to do.

7 MR. KESHAVERZ: Any other
 8 basis?

9 MR. BALBER: Ask the questions,
 10 enough. Are you done with the
 11 deposition? **You are being completely**
 12 **inappropriate and dishonest.** Ask the
 13 questions and move on.

14 MR. KESHAVERZ: Mark this as an
 15 Exhibit, please.

16 (Whereupon, the aforementioned
 17 Deposition transcript of Rocco
 18 Nittoli dated 3/10/2017 was marked as
 19 Plaintiff's Exhibit 2 for
 20 identification as of this date by the
 21 Reporter.)

22 Q. Without telling me about any
 23 meetings, was there a time when a decision
 24 was made about whether the Mel Harris and
 25 Rushmore should continue to be used to